

Public Law 94-577  
94th Congress

An Act

To improve judicial machinery by further defining the jurisdiction of United States magistrates, and for other purposes.

Oct. 21, 1976

[S. 1283]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 636(b) of title 28, United States Code, is amended to read as follows:

U.S. magistrates.  
Jurisdiction,  
definition.

“(b) (1) Notwithstanding any provision of law to the contrary—

“(A) a judge may designate a magistrate to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate's order is clearly erroneous or contrary to law.

“(B) a judge may also designate a magistrate to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

“(C) the magistrate shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate. The judge may also receive further evidence or recommit the matter to the magistrate with instructions.

“(2) A judge may designate a magistrate to serve as a special master pursuant to the applicable provisions of this title and the Federal Rules of Civil Procedure for the United States district courts. A judge may designate a magistrate to serve as a special master in any civil case, upon consent of the parties, without regard to the provisions of rule 53(b) of the Federal Rules of Civil Procedure for the United States district courts.

“(3) A magistrate may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States.

28 USC app.

"(4) Each district court shall establish rules pursuant to which the magistrates shall discharge their duties."

28 USC app.

SEC. 2. (a)(1) Rule 8(b) of the Rules Governing Section 2254 Cases in the United States District Courts is amended to read as follows:

"(b) FUNCTION OF THE MAGISTRATE.—

"(1) When designated to do so in accordance with 28 U.S.C. § 636(b), a magistrate may conduct hearings, including evidentiary hearings, on the petition, and submit to a judge of the court proposed findings of fact and recommendations for disposition.

"(2) The magistrate shall file proposed findings and recommendations with the court and a copy shall forthwith be mailed to all parties.

"(3) Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.

"(4) A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify in whole or in part any findings or recommendations made by the magistrate."

28 USC app.

(2) Rule 8(b) of the Rules Governing Section 2255 Proceedings for the United States District Courts is amended to read as follows:

"(b) FUNCTION OF THE MAGISTRATE.—

"(1) When designated to do so in accordance with 28 U.S.C. § 636(b), a magistrate may conduct hearings, including evidentiary hearings, on the motion, and submit to a judge of the court proposed findings and recommendations for disposition.

"(2) The magistrate shall file proposed findings and recommendations with the court and a copy shall forthwith be mailed to all parties.

"(3) Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court.

"(4) A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify in whole or in part any findings or recommendations made by the magistrate."

(b)(1) Rule 8(c) of such Rules Governing Section 2254 Cases is amended by striking out “and shall conduct the hearing” and inserting in lieu thereof the following: “and the hearing shall be conducted”. 28 USC app.

(2) Rule 8(c) of such Rules Governing Section 2255 Proceedings is amended by striking out “and shall conduct the hearing” and inserting in lieu thereof the following: “and the hearing shall be conducted”.

(c) The amendments made by this section shall take effect with respect to petitions under section 2254 and motions under section 2255 of title 28 of the United States Code filed on or after February 1, 1977.

Effective date.

Approved October 21, 1976.

#### LEGISLATIVE HISTORY:

HOUSE REPORT No. 94-1609 (Comm. on the Judiciary).

SENATE REPORT No. 94-625 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 122 (1976):

Feb. 5, considered and passed Senate.

Oct. 1, considered and passed House, amended; Senate agreed to House amendments.